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Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization

Repertory of Practice of United Nations Organs and the *Repertoire of the Practice of the Security Council*

Report of the Secretary-General**

Summary

The present report outlines the efforts undertaken by the Secretariat in 2003 to reduce the backlog in the publication of the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council*, including consideration of alternative courses of action relating to the *Repertory*. For the *Repertoire*, it also proposes a two-track approach, to address current developments in the procedure and practice of the Council and at the same time expedite elimination of the backlog. The General Assembly is invited, in section IV, in the context of the approval of the budget for the biennium 2004-2005, to take action in the light of the information presented.

* A/58/150.

** The present report was submitted after the established deadline to reflect the latest information concerning the preparation and publication of the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council* and due to delays in clearances from other departments.

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I. Introduction

1. The present progress report has been prepared pursuant to paragraph 4 of General Assembly resolution 57/24 of 19 November 2002, in which the Assembly took note of paragraph 57 of the 2002 report of the Secretary-General (A/57/370), commended him for his continued efforts to reduce the backlog in the publication of the *Repertory of Practice of United Nations Organs*, and endorsed his efforts to eliminate the backlog in the publication of the *Repertoire of the Practice of the Security Council*.

II. *Repertory of Practice of United Nations Organs*

A. Steps undertaken by the Secretariat to expedite the preparation of Supplements to the *Repertory*

1. Interdepartmental Committee on Charter Repertory

2. Following the issuance of the 2002 report, the Interdepartmental Committee on Charter Repertory[1] held three meetings, inter alia, to review the status of the publication of volumes III and IV of Supplement No. 5 (1970-1978) and volumes I, II, IV and V of Supplement No. 6 (1979-1984); to review the preparation of volume III of Supplement No. 6 (1979-1984), of volumes I, II, IV, V and VI of Supplement No. 7 (1985-1988), of volumes IV and VI of Supplement No. 8 (1989-1994) and of volumes IV and VI of Supplement No. 9 (1995-1999); to review the implementation of the work programme for the 2002-2003 biennium; and to continue the inter-office dialogue on reviewing the working methods for the preparation of the *Repertory*.

(a) Review Committee of the Interdepartmental Committee on Charter Repertory

3. The Review Committee of the Interdepartmental Committee on Charter Repertory, consisting of representatives of the Office of Legal Affairs, the Department of Political Affairs and the respective coordinating and author departments, reviewed the remaining studies for volume VI of Supplement No. 7 and approved the volume for publication. It also reviewed a number of studies submitted for inclusion in volume III of Supplement No. 6, in volumes II, III, IV and V of Supplement No. 7, in volumes II, IV and VI of Supplement No. 8 and in volume IV of Supplement No. 9.

(b) Inter-office dialogue on reviewing the working methods for the preparation of the *Repertory*

4. In paragraph 5 of the Secretary-General's 2002 report, it was stated that the Secretariat units participating in the preparation of the *Repertory* continued to review the efficiency of current working methods and to consider different options for improving productivity and increasing the *Repertory* Supplement production rate. At its meeting in December 2002, the Interdepartmental Committee agreed to establish a task force on alternative courses of action to consider the issues reflected in paragraphs 6 to 9 of the Secretary-General's 2002 report, to discuss in greater depth the various alternative courses of action and to prepare a comprehensive list of ideas on the matter for consideration by the Interdepartmental Committee. In January of 2003, the task force discussed the question of the placement of *Repertory* studies on the Internet and the question of the establishment of a central *Repertory*

section. At its meeting in March 2003, the Interdepartmental Committee approved the proposal of the task force on the placement of *Repertory* studies on the Internet. At its meeting in June 2003, the task force continued its discussion of the establishment of a central *Repertory* section, as well as of the other alternative courses of action mentioned below.

Placement of *Repertory* studies on the Internet

5. The Codification Division of the Office of Legal Affairs, in cooperation with the Secretariat units participating in the Interdepartmental Committee, has prepared a central portal web site for the *Repertory of Practice of United Nations Organs*, to be located on the main web site of the Organization. The portal site is organized to provide the user with links to a series of sub-pages devoted to individual articles. It is anticipated that the site will become operational by September 2003. The site will provide users of the *Repertory* with access to studies that have been finalized and approved by the Review Committee, but whose publication in print form may be delayed for a number of reasons, such as the need for the completion of all studies in a given volume or delays in the processing and printing of the relevant volume of the *Repertory*. This will serve as a stopgap measure towards the elimination of the backlog. Moreover, the site will include electronic versions of all studies thus far published in the *Repertory* in all languages in which they have been published. For that purpose, the Office of Legal Affairs has already digitized a major part of the Supplements to the *Repertory* so that they can be available for use through a searchable electronic database.

The establishment of a central *Repertory* section

6. In its report in March 2002 on the in-depth evaluation of legal affairs (E/AC.51/2002/5), the Office of Internal Oversight Services made the recommendation that a central *Repertory* section be established. There was a discussion of this proposal in the Interdepartmental Committee from an administrative, institutional and budgetary standpoint. At that stage, the Committee could not arrive at a convincing rationale for the creation of a central *Repertory* section, on either a temporary or a permanent basis. The existence of other options, to be applied individually or in conjunction with one another, and tailored to the specific circumstances of individual Secretariat units, would seem to obviate the need for an institutional arrangement of such complexity. The Interdepartmental Committee deferred further consideration of this idea pending the decision of the General Assembly on the budget for 2004-2005, taking into account its obvious financial implications.

Other alternatives considered

7. The Committee discussed the possibility of pursuing numerous other courses of action to be taken either individually or in combination.

Parallel work to produce on schedule the most recent Supplement and to eliminate the backlog in remaining volumes of Supplements Nos. 7 to 9

8. Under this alternative, starting in 2005, two parallel tasks in each authoring unit would focus, on the one hand, on updating what then would consist of the most recent Supplement (No. 10) and, on the other hand, on backlogged volumes.

Focus on the elimination of the backlog in Article studies rather than volumes

9. Authoring units, for the remainder of their backlogged volumes, would identify priority Article studies within their volumes. Each priority Article study would be brought up to date, thus eliminating the backlog in that specific Article across the relevant Supplements, which would still be backlogged, prior to turning to the next priority Article study. This course of action could presumably accelerate the work by using efficiently the expertise acquired for the preparation of a study on a particular Article.

Develop programmes with academia

10. By this alternative, the Secretariat would develop partnerships with universities, whereby law students, under a special internship or externship programme and under the supervision of a faculty adviser, worked with staff to provide the initial research and draft of selected Article studies, resulting in reduced costs for external temporary assistance. It should be noted that readiness of some academic institutions for this kind of cooperation was expressed in response to an enquiry addressed to them by the Secretariat regarding their interest in taking over the preparation of the *Repertory*. While all the institutions thus approached declined to take over preparation, expressing the hope that it would be continued to be prepared by the United Nations, a number of them offered assistance for the work of the United Nations in this regard. It should be noted that the enquiry was addressed to them in the context of both the Secretary-General's proposal to discontinue the *Repertory*[2] and the recommendation of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization to encourage the Secretary-General in his continuous efforts to eliminate the backlog in the *Repertory*.[3] The Committee, furthermore, reiterated its appreciation for the contribution of interns who worked on the *Repertory* under the existing United Nations internship programme.

Temporary reassignment of authoring and/or coordinating tasks

11. Depending on the alternative course(s) of action possibly decided upon, future work programmes may require some redistribution of tasks, on a case-by-case basis.

Change the system of editing and translation of studies from one based on volumes to one based on individual studies

12. The Committee also considered that, rather than process studies by completed volumes, individual studies should be edited and thereafter translated prior to the completion of a volume as a whole, thus making available to Member States the edited English, French and Spanish versions of the studies on the Internet.

13. In the Committee's view, the further elaboration of possible courses of action will need to await the decision of the General Assembly on the draft budget for the biennium 2004-2005.

B. Status of the *Repertory*

1. Preparation of Supplement No. 5 (1970-1978)

14. The 2002 report of the Secretary-General indicated in paragraph 13 that volume III of Supplement No. 5 would be published by the end of 2002. The volume

was issued in English in December 2002, and Supplement No. 5 has been completed.

2. Preparation of volumes II, III and IV of Supplement No. 6 (1979-1984)

(a) Volume II of Supplement No. 6

15. The 2002 report indicated in paragraph 18 that volume II of Supplement No. 6 had been submitted for processing and publication. It is anticipated that the volume will be published in English in 2004.

(b) Volume III of Supplement No. 6

16. The 2002 report indicated in paragraph 20 that the entire volume III would be submitted for processing and publication at the beginning of 2004.

17. The Review Committee reviewed several studies for the volume in 2003. The remaining studies will be completed by the Department of Political Affairs in 2003, and the entire volume will be submitted for processing and publication at the beginning of 2004.

(c) Volume IV of Supplement No. 6

18. The 2002 report indicated in paragraph 22 that volume IV of Supplement No. 6 had been submitted for processing and publication and would be published in English in September 2003. The volume was published in English in December 2002.

3. Preparation of volumes I, II, IV, V and VI of Supplement No. 7 (1985-1988)

(a) Volume I of Supplement No. 7

19. The 2002 report noted in paragraph 26 that work on volume I would commence during the 2004-2005 biennium if the resources requested for that purpose in the proposed programme budget were approved.

20. In early 2003 the Review Committee reviewed studies by the Office of Human Resources Management. The Department of Political Affairs has commenced work on its studies, and the Office of Legal Affairs will commence work on its studies in 2004. It is anticipated that the volume will be submitted for processing and publication in 2005/2006.

(b) Volume II of Supplement No. 7

21. The 2002 report noted in paragraph 32 that work had started on volume II of Supplement No. 7. Since then, several Secretariat units have submitted studies and others have commenced work on their studies for the volume. The Review Committee reviewed several studies for the volume in 2003. It is anticipated that volume II will be completed in 2005.

(c) Volume IV of Supplement No. 7

22. The 2002 report indicated in paragraph 28 that the Review Committee would review studies as they were finalized, and that volume IV would be submitted for processing and publication by the end of 2003.

23. The Review Committee continued to review submissions for the volume. It is anticipated that the remaining studies will be submitted for processing and publication as planned by the end of 2003.

(d) Volume V of Supplement No. 7

24. The 2002 report stated in paragraph 33 that work had commenced on studies for volume V in 2002. The volume will be submitted for processing and publication at the end of 2003.

(e) Volume VI of Supplement No. 7

25. According to paragraph 30 of the 2002 report, most of the studies for volume VI had been prepared, and it was tentatively expected that the remaining studies would be completed and submitted to the Review Committee in the first half of 2003.

26. The Review Committee reviewed the remaining studies for the volume, and in June 2003 the volume was submitted for processing and publication.

4. Work undertaken on volumes of Supplements Nos. 8 (1989-1994) and 9 (1995-1999)

(a) Volume IV of Supplements Nos. 8 and 9

27. With regard to volume IV of Supplements Nos. 8 and 9, the 2002 report indicated in paragraphs 35 and 36 that several studies for volume IV of Supplement No. 8 had been finalized and that work on the volume was anticipated to be completed in 2004. It was anticipated that volume IV of Supplement No. 9 would be completed at the end of 2005.

28. Work on both Supplements continues as planned.

(b) Volume VI of Supplements Nos. 8 and 9

29. Work on most of the studies for volume VI and Supplement No. 8 began in 2003. It is anticipated that volume VI of both Supplements will be finalized by the end of 2005.

5. Translation of *Repertory* volumes into French and Spanish

30. The 2002 report noted in paragraphs 38 to 41 that volume IV of Supplement No. 5 would be issued in French and Spanish in December 2002, that volume I of Supplement No. 6 would be issued in French and Spanish in June/July 2003, that volume IV of Supplement No. 6 would be issued in French and Spanish in September 2003 and that volume V of Supplement No. 6 would be issued in French and Spanish in December 2003.

31. Volume IV of Supplement No. 5 has been issued in French and Spanish. Volume I of Supplement No. 6 will be issued in French in October 2003 and Spanish in January 2004. Volume IV of Supplement No. 6 will be issued in French and Spanish in April 2004. Volume V of Supplement No. 6 will be issued in French in March 2004 and Spanish in January 2004.

6. Overall status of the *Repertory*

32. In March 2002, the Office of Internal Oversight Services indicated, in its report on the in-depth evaluation of legal affairs, the year 2007 as a deadline for the elimination of the backlog. By that time, the *Repertory* should consist of a total of 45 volumes. However, four volumes (part of Supplement No. 9) will still be pending, even if already in an advanced stage of preparation. This assessment is based on the assumption that the existing system of the production of studies and level of funding will be maintained.

33. These statistics reflect only the preparation of studies, including their final approval by the Review Committee. Under the present system, however, a lag time of one to two years usually exists between the completion of all studies in a given volume and the publication of the volume, because of the low priority of the *Repertory* vis-à-vis other publications. This disadvantage will be significantly remedied by the placement of approved studies on the Internet, as well as by the proposed change in the system of editing and translation of studies (see para. 12 above).

C. Assessment of action required

34. At its August 2003 meeting, the Interdepartmental Committee on Charter Repertory confirmed its view that only the continued provision of adequate budgetary resources on a regular basis for *Repertory*-related tasks will permit the sustained production of the *Repertory*.

35. With regard to the goal of ensuring that the Organization devotes its attention to the priorities set by the Member States, the Secretary-General has indicated that compiling the *Repertory* is an onerous reporting responsibility requiring significant resources and that the Secretariat is simply unable to respond with timely updates. He has further indicated, in action 10 (d) of his report entitled "Strengthening of the United Nations: an agenda for further change" (A/57/387 and Corr.1) that the *Repertory* should no longer be produced by the United Nations, and, accordingly, no provisions for it are included in the proposed programme budget for 2004-2005. Nevertheless, the Special Committee on the Charter, at its April 2003 session, recommended that the General Assembly encourage the Secretary-General to continue eliminating the backlog, commend him for his initiative to make *Repertory* studies available on the Internet, and request that he make all versions of the *Repertory* electronically available.[4]

III. *Repertoire of the Practice of the Security Council*

A. Status of the *Repertoire*

1. Translation of the tenth Supplement

36. Pursuant to section III, paragraph 15, of General Assembly resolution 55/222 of 23 December 2000, the *Repertoire of the Practice of the Security Council* is to be published in all official languages beginning with the tenth Supplement, covering the period 1985-1988. The Chinese version of the tenth Supplement was published in July 2002 and the Russian version in December 2002. The publication of the Arabic, French and Spanish versions is expected as soon as technical difficulties relating to indexing have been resolved.

2. Preparation of the eleventh Supplement

37. The eleventh Supplement to the *Repertoire*, covering the period 1989-1992, will be completed on schedule and submitted for publication by the end of 2003.

3. Preparation of the twelfth Supplement

38. Further progress has been made in the preparation of the twelfth Supplement to the *Repertoire*, covering the period 1993-1995. It is expected that the first draft will be completed in 2004 and that the text will be submitted for publication in 2005. For this to happen, however, additional contributions to the Trust Fund for the Updating of the *Repertoire* are needed to finance the extension of the contracts of the four Professional staff members of the temporary team.

B. Timely preparation of future Supplements to the *Repertoire*

39. While the discussion has, in recent years, been framed in terms of eliminating the backlog, it is apparent that the more immediate concern of Member States is to have a record of developments in the Security Council's procedure and current practice. There is therefore a need to address current developments while continuing to expedite the elimination of the backlog. The latter might be approached in a similar way to that in which certain Member States have brought publications on their State practice in international law up to date. The aim would be to produce a streamlined version of the *Repertoire*, to cover the period 1996-1999, incorporating all relevant aspects of previous Supplements.

40. Should the General Assembly decide that it wishes the Secretariat to begin simultaneously to produce a contemporary Supplement commencing with the year 2000, it will be necessary for Member States to maintain current budgetary resource levels. In addition, a commitment to extrabudgetary sources of support will be of continued importance.

41. Among such resources, contributions to the Trust Fund for the Updating of the *Repertoire* would be useful. During the current reporting period, three Member States — France, Greece and the United Kingdom of Great Britain and Northern Ireland — contributed a total of $50,594 to the Trust Fund. Their financial support is greatly appreciated, as it helped to sustain the work of the additional temporary team established to prepare the twelfth Supplement. However, additional contributions are clearly needed to maintain the temporary team at the current level. Member States might also wish to consider assisting through the provision of associate experts. In that regard, the Secretariat is grateful for the contribution by France of an associate expert from March 2001 to February 2003.

IV. Conclusions

42. **With respect to the *Repertory of Practice of United Nations Organs*, in the light of the foregoing, the General Assembly may wish to note:**

(a) **The progress made towards eliminating the backlog, indicated in paragraphs 14 to 33 above;**

(b) **The establishment of a web site for the *Repertory*, within existing resources, making available both those volumes already published and individual studies that have been finalized and approved by the Review**

Committee, intended as a stopgap measure towards the elimination of the backlog;

(c) The intention to continue in 2004 the inter-office dialogue on reviewing alternative working methods for the preparation of the *Repertory*, as set out in paragraphs 7 to 12 above, and take action concerning future steps regarding the *Repertory*.

43. **With respect to the *Repertoire of the Practice of the Security Council*, in the light of the above, the General Assembly may wish to:**

(a) Note the progress made towards eliminating the backlog in the production of the Supplements to the *Repertoire*;

(b) Note that the eleventh Supplement is scheduled for submission for publication by the end of 2003;

(c) Note that work is continuing on the twelfth Supplement;

(d) Note with appreciation the contributions made by France, Greece and the United Kingdom of Great Britain and Northern Ireland to the Trust Fund for the Updating of the *Repertoire*; note that additional contributions are needed to complete the work on the twelfth Supplement in a timely manner and to bring the *Repertoire* up to date; and note with appreciation the contribution by France of an associate expert, and call upon other Member States to consider providing such support;

(e) Endorse the two-track approach proposed by the Secretariat, to address current developments in the procedure and practice of the Council and at the same time expedite elimination of the backlog.

Notes

[1] The Committee is composed of representatives of all Secretariat units involved in the preparation of Supplements to the *Repertory* (see annex I) and is responsible for directing and overseeing the preparation and publication of those Supplements.

[2] See A/57/387 and Corr.1, para. 83.

[3] See A/58/33, para. 183.

[4] Ibid.

Annex I

Secretariat units bearing primary responsibility for the preparation of studies on individual provisions of the Charter of the United Nations

Office of Legal Affairs	*Repertory* volume I: Articles 1 (1), (3) and (4), 2 (1) to (3) and (5) to (7) and 7
	Volume II: Article 13 (1) (a)
	Volume VI: Articles 92 to 99, 102 to 105 and 108 to 111
Department of Political Affairs	Volume I: Articles 1 (2), 2 (4) and 3 to 6
	Volume II: Articles 10, 12, 13 (1) (a), 14 and 16
	Volume III: Articles 23 to 39 and 107
	Volume V: Articles 73 to 85, 87 and 88
Department of Political Affairs with Department of Peacekeeping Operations	Volume III: Articles 40 to 54 and 106
Department for Disarmament Affairs	Volume II: Article 11
Department of General Assembly and Conference Management	Volume II: Articles 9, 15, 18 and 20 to 22
	Volume IV: Articles 60, 61, 62 (3) and (4), 65 to 69 and 72
	Volume V: Articles 86, 89, 90 and 91
Department of Management	Volume II: Articles 17 and 19
	Volume VI: Articles 100 (1) and 101
Department of Management with Office of Legal Affairs	Volume VI: Article 100 (2)
Department of Economic and Social Affairs	Volume II: Article 8[a]
Office of the United Nations High Commissioner for Human Rights	Volume II: Article 13 (1) (b)
	Volume IV: Articles 55 (c), 56 and 62 (2)
Office for Outer Space Affairs	Volume II: Article 13 (1) (a)

[a] The Department of Management (Office of Human Resources Management) is responsible for the preparation of Article 8 for the period up to and including 1996. For the period from 1997 onwards, that responsibility falls to the Department of Economic and Social Affairs.

Annex II

Secretariat units responsible for the coordination of the preparation of *Repertory* volumes

Volume	*Department*
I. (Articles 1 to 8)	Office of Legal Affairs
II. (Articles 9 to 22)	Department of General Assembly and Conference Management
III. (Articles 23 to 54, 106 and 107)	Department of Political Affairs
IV. (Articles 55 to 72)	Department of Economic and Social Affairs
V. (Articles 73 to 91)	Department of Political Affairs
VI. (Articles 92 to 105 and 108 to 111)	Office of Legal Affairs
Index	Department of Public Information (Dag Hammarskjöld Library)